

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Hyacinth Joyce Simms,

Chapter 11 (Subchapter V)

Case No. 23-40070-nhl

Debtor.

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**SUBCHAPTER V OF CHAPTER 11 ORDER SETTING: (A) DATE AND TIME
FOR POST-FILING CASE CONFERENCE; (B) CLAIMS BAR DATE; (C)
SECTION 1188 STATUS CONFERENCE; (D) DEADLINE FOR ELECTION
UNDER SECTION 1111(b)(2); AND (E) OTHER DEADLINES**

Hyacinth Joyce Simms (the “Debtor”), having filed a petition for relief under chapter 13 of the Bankruptcy Code on January 11, 2023; and an order having been entered on August 24, 2023 converting this case to chapter 11 of the Bankruptcy Code; and on September 13, 2023, the Debtor having refiled the petition for relief and having elected to proceed under subchapter V; and the Court having determined that (i) a post-filing case conference will aid in the efficient conduct and proper administration of the case, and (ii) an Order setting forth the date on which the 11 U.S.C. § 1188 status conference shall be held and setting other deadlines required to be met under subchapter V of chapter 11 should be entered; now, therefore, it is hereby

ORDERED, that, pursuant to 11 U.S.C. § 105, a post-filing case conference will be conducted by videoconference, using the Zoom platform,¹ before the undersigned Bankruptcy Judge on **October 17, 2023, at 10:00 a.m.**; and it is further

¹ Until further notice, all hearings on all Chapter 11 cases will be conducted by videoconference via Zoom platform. Additional information for making an appearance is set forth on the Court’s website, at <https://www.nyeb.uscourts.gov/content/judge-nancy-hershey-lord>. Prior to such hearing, all participants (including attorneys, clients, and *pro se* parties) **shall register their appearances through the Court’s eCourt Appearances program**, as more fully set forth on the aforementioned website. Once registered, eCourt Appearances will email the Zoom dial-in number and video link for the corresponding hearing(s). Additional information for accessing eCourt Appearances is available at <https://www.nyeb.uscourts.gov/node/2126>. Those participants who do not have CM/ECF accounts may access eCourt Appearances at <https://ecf.nyeb.uscourts.gov/cgi-bin/nyebAppearances.pl>. Those unable to access eCourt Appearances must email the Courtroom Deputy, at nhl_hearings@nyeb.uscourts.gov, at least two (2) business days prior to such telephonic, which email shall include: (i) your name and phone number, (ii) the case number

ORDERED, that the Debtor, or an authorized representative of the Debtor, and counsel for the Debtor, shall be present in person at the post-filing case conference and shall be prepared to address the following matters:

- (1) the Debtor's eligibility to be a debtor under subchapter V of chapter 11;
- (2) the nature of the Debtor's commercial or business activity and the reason for the subchapter V chapter 11 filing;
- (3) compliance with 11 U.S.C. §§ 1116(2), (3), (4), (5), (6) and (7);
- (4) compliance with 11 U.S.C. § 308;
- (5) the Debtor's financial condition, including post-petition operations and revenue;
- (6) first day orders, if any;
- (7) debtor-in-possession financing;
- (8) the use of cash collateral;
- (9) any significant motions which the Debtor anticipate bringing before the Court including, but not limited to, sale motions;
- (10) matters relating to the Debtor's retention of professionals;
- (11) the status of any litigation involving the Debtor;
- (12) the status of the Debtor's insurance;
- (13) the status of opening debtor-in-possession bank account(s) and closing pre-petition bank account(s);
- (14) in the case of an individual debtor(s), whether the Debtor intends to seek loss mitigation under the Court's Loss Mitigation Program; and
- (15) any other case administrative matters;

AND IT IS FURTHER ORDERED, that the Subchapter V Trustee appointed in this case is encouraged, but not required, to participate in the post-filing case conference, and may do so by phone; and it is further

ORDERED, that the Debtor shall file with the Court, and serve upon the Office of the United States Trustee and the Subchapter V Trustee, monthly operating reports during the pendency of this case, and such operating reports shall (i) be in the form prescribed by the Office of the United States Trustee's *Operating Guidelines and Reporting Requirements for Debtor-in-Possession and Trustees* for cases pending in this District, and (ii) be served and filed on or before

of the matter for which you are appearing; (iii) the hearing date and time; and (iv) which party you represent (if applicable).

the 21st day of the month following the reporting period, and, further, in the case of the initial operating report if the order converting this case to chapter 11 is within the first fifteen (15) days of a calendar month, the report shall be filed for the portion of the month that follows the conversion order, and if the conversion order is after the fifteenth (15th) day of a calendar month, the period for the remainder of the month shall be included in the report for the next calendar month; and it is further

ORDERED, that, within seven (7) days following entry of this order, the Debtor shall serve notice of this order, the order converting this case to chapter 11, and the Debtor's refiled petition to any entity known to be holding money or property subject to withdrawal or order of the Debtor (Fed. R. Bankr. P. 2015(a)(4)); and it is further

ORDERED, that pursuant to 11 U.S.C. §§ 1187(a), 1116(1)(A), and 1116(1)(B), the Debtor shall file and serve the following documents with the re-filed petition for relief:

- (1) Debtor's most recent balance sheet;
- (2) Debtor's most recent statement of operations;
- (3) Debtor's cash-flow statement; and
- (4) Debtor's most recent federal income tax return;

and the Debtor shall file and serve any such documents not filed with the petition within seven (7) days after entry of this order, and if the Debtor has not prepared one or more of the foregoing documents or, in the case of a federal income tax return, has not filed such a return, then in lieu of such document(s), the Debtor shall within seven (7) days following entry of this order, file a declaration attesting to that fact under penalty of perjury; and it is further

ORDERED, that all creditors, **including governmental units**, shall file proof of their claim or interest not later than seventy (70) days following the Debtor's election to proceed under Subchapter V, which in this case is **November 22, 2023**; and it is further

ORDERED, that a status conference pursuant to 11 U.S.C. § 1188 on **November 16, 2023** **at 10:00 a.m.** (the “Section 1188 Status Conference”) shall be held **virtually via Zoom platform**² before the Honorable Nancy Hershey Lord, United States Bankruptcy Judge for the Eastern District of New York, in order to further the expeditious and economical resolution of this case; and it is further

ORDERED, that the Debtor, Debtor’s counsel, and the appointed Subchapter V Trustee shall appear at the Section 1188 Status Conference; and it is further

ORDERED, that at least fourteen (14) days prior to the date of the foregoing Section 1188 Status Conference, or on or before **November 2, 2023**, the Debtor shall (i) file the report required by 11 U.S.C. § 1188(c), which “details the efforts the debtor has undertaken and will undertake to attain a consensual plan of reorganization,” and (ii) serve said report on the Subchapter V Trustee, the United States Trustee, and all parties in interest; and it is further

ORDERED, that not later than ninety (90) days following the Debtor’s election to proceed under Subchapter V, or on or before **December 12, 2023**, the Debtor shall file and serve a plan, pursuant to 11 U.S.C. § 1189(b), and such plan shall conform to the requirements of 11 U.S.C. §§ 1190 and 1191, along with the applicable provisions of 11 U.S.C. §§ 1123 and 1129 and further, unless otherwise ordered, the Debtor shall use the *Plan of Reorganization for Small Business Under Chapter 11* (Official Form 425A); and it is further

ORDERED, that any secured creditor that wishes to make an election under 11 U.S.C. § 1111(b)(2), shall do so no later than ten (10) days following the filing of the plan; and it is further

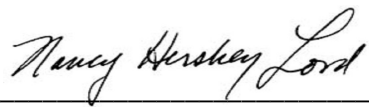
² See information and instructions for eCourt Appearances *supra* note 1.

ORDERED, that failure to comply with this Order may result in the imposition of sanctions against the Debtor or Debtor's counsel, and in the Court's discretion, these sanctions might include, but are not limited to, conversion or dismissal of this case, and/or monetary sanctions and, in addition, any unexcused failure to attend any status conferences or to otherwise comply with this Order may constitute cause for conversion of this case to chapter 7 or dismissal of this case pursuant to 11 U.S.C. § 1112; and it is further

ORDERED, that the Clerk of Court give notice of this Order to the Debtor, Debtor's Counsel, the United States Trustee, the Subchapter V Trustee and all creditors and parties in interest.

Dated: September 22, 2023
Brooklyn, New York




Nancy Hershey Lord
United States Bankruptcy Judge